



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PINE BLUFF HOLDINGS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of the One Month Notice to End Tenancy (the "One Month Notice") pursuant to section 47.

The tenant and the landlord attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The tenant testified that he personally served the landlord the notice of dispute resolution package (the "package") on June 6, 2018. The landlord confirmed receipt of the package from the tenant on June 6, 2018. I find that the landlord was served with this package on June 6, 2018 in accordance with section 89 of the *Act*.

The tenant testified that he attempted to personally serve the landlord with an amendment to his notice of dispute resolution (the "amendment") via usb stick on June 25, 2018. The tenant testified that the landlord refused to accept the usb stick and so he emailed the amendment to the landlord on June 25, 2018. The landlord confirmed that she refused to accept the usb stick from the tenant on June 25, 2018, stating that she was concerned about computer viruses. The landlord confirmed receipt of the amendment package from the tenant via email on June 25, 2018.

While e-mail is not an approved form of service pursuant to section 88 or 89 of the *Act*, I find that, pursuant to section 71 of the *Act*, the amendment was sufficiently served for the purposes of this *Act*, as the landlord confirmed receipt.

The landlord testified that she personally served her evidence package on the tenant on June 27, 2018. The tenant confirmed receipt of the landlord's evidence package in

person on June 27, 2018. I find that the landlord's evidence package was served on the tenant on June 27, 2018 in accordance with section 88 of the *Act*.

I note that Section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

#### Issue(s) to be Decided

1. Is the tenant entitled to cancellation of the One Month Notice, pursuant to section 47 of the *Act*?
2. If the One Month Notice is not cancelled, is the landlord entitled to an Order of Possession, pursuant to section 55 of the *Act*?

#### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant's and landlord's claims and my findings are set out below.

Both parties agreed to the following facts. Monthly rent in the amount of \$608.00 is payable on the first day of each month. A written tenancy agreement was signed by both parties and a copy was submitted for this application.

The landlord entered into written evidence a copy of the One Month Notice, dated May 28, 2018. Both parties agreed that the One Month Notice was served personally on the tenant on May 28, 2018.

In the One Month Notice, requiring the tenant to end this tenancy by June 30, 2018, the landlord cited the following reasons for the issuance of the Notice pursuant to section 47(1)(d) of the *Act*:

*Tenant or a person permitted on the property by the tenant has:*

- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
- *put the landlord's property at significant risk.*

The landlord testified that she and other tenants have witnessed the tenant sell drugs from the door of his rental property and in the parking lot of the rental property on numerous occasions. In support of this, the landlord has submitted written witness statements from two separate tenants and from the building manager citing specific instances of drug deals they saw occur.

The landlord testified that on May 28, 2018 she asked the tenant to join her and the building manager in her office for a meeting. The landlord testified that at that time she brought up her concerns about dealing drugs out of his home and in the parking lot. The landlord testified that the tenant stated that he only sold Tylenol 3s to those who wanted them and that he sometimes sold marijuana. The landlord testified that the tenant also admitted to using "speed". In support of this testimony, the landlord submitted into evidence a written statement of the property manager which confirmed the landlord's version of events.

The landlord testified that she has seen lots of street people entering her property and going to the tenant's door at all hours of the day and night. The landlord testified that the other tenants in the building are frightened of these people and feel threatened. The landlord testified that it is her obligation to provide a safe environment for the other 83 tenants in the building and that the drug related activities of the tenant are unsafe.

The tenant testified that he is not a drug dealer. The tenant testified that he buys street drugs to help cope with his nerve disorder as his doctor won't give him anything stronger than a Tylenol 3. The tenant testified that he does not sell Tylenol 3s but lends them to a friend suffering from mouth cancer if that friend runs out but that his friend always returns the Tylenol 3s he borrows. The tenant testified that he only sells marijuana to one or two regular people so there are not lots of different people coming and going from his unit.

### Analysis

Based on the testimony of the landlord and the tenant, I find that the tenant was properly served with the One Month Notice, and I find that the 1 Month Notice complies with the form and content provisions of section 52 of the *Act*.

Section 47(1)(d) states that a landlord may end a tenancy by giving notice to end the tenancy if the tenant or a person permitted on the residential property by the tenant has

seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or has put the landlord's property at significant risk.

The tenant admitted that he sold marijuana to a “couple of regulars”. Based on this admission, in addition to the testimony of the landlord and the three witness statements submitted by the landlord which describe instances of drug deals, I find that the tenant sells drugs from his rental property.

I find that selling drugs from a rental property creates a significant risk of criminal activity occurring at that property. I further find that this risk seriously jeopardizes the health and safety of the other tenants in the building contrary to section 47(1)(d) of the *Act*. I dismiss the tenant’s application to cancel the 1 Month Notice.

### Conclusion

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service on the tenant**. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 09, 2018

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Residential Tenancy Branch